

RDMD/Planning and Development Services

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DATE: February 10, 2005

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Land Use Planning

SUBJECT: Public Hearing on Planning Application PA04-0100 for Variance, Use Permit and Site Development Permit

PROPOSAL: The applicant proposes to make additions to an existing single-family residence including a new street level detached three-car garage. A Variance to the setback requirement is required for the garage to be located 11' from the edge of the street when a setback of 18' is required. A Use Permit is required to allow for retaining walls up to a height of 9' in the front setback area when a height of 3'-6" is permitted. A Site Development Permit is required for grading in excess of 500 cubic yards on a property with a slope greater than 30 percent (grading of 688 cubic yards is proposed).

LOCATION: In the community of Emerald Bay, inland of Pacific Coast Highway at 1400 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: John and Gail Ueberroth, property owner
Laidlaw Schultz Architect, agent

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 834-3522

SYNOPSIS: PDS/Land Use Planning recommends Zoning Administrator approval of PA04-0100 for Variance, Use Permit and Site Development Permit subject to the attached Findings and Conditions of Approval.

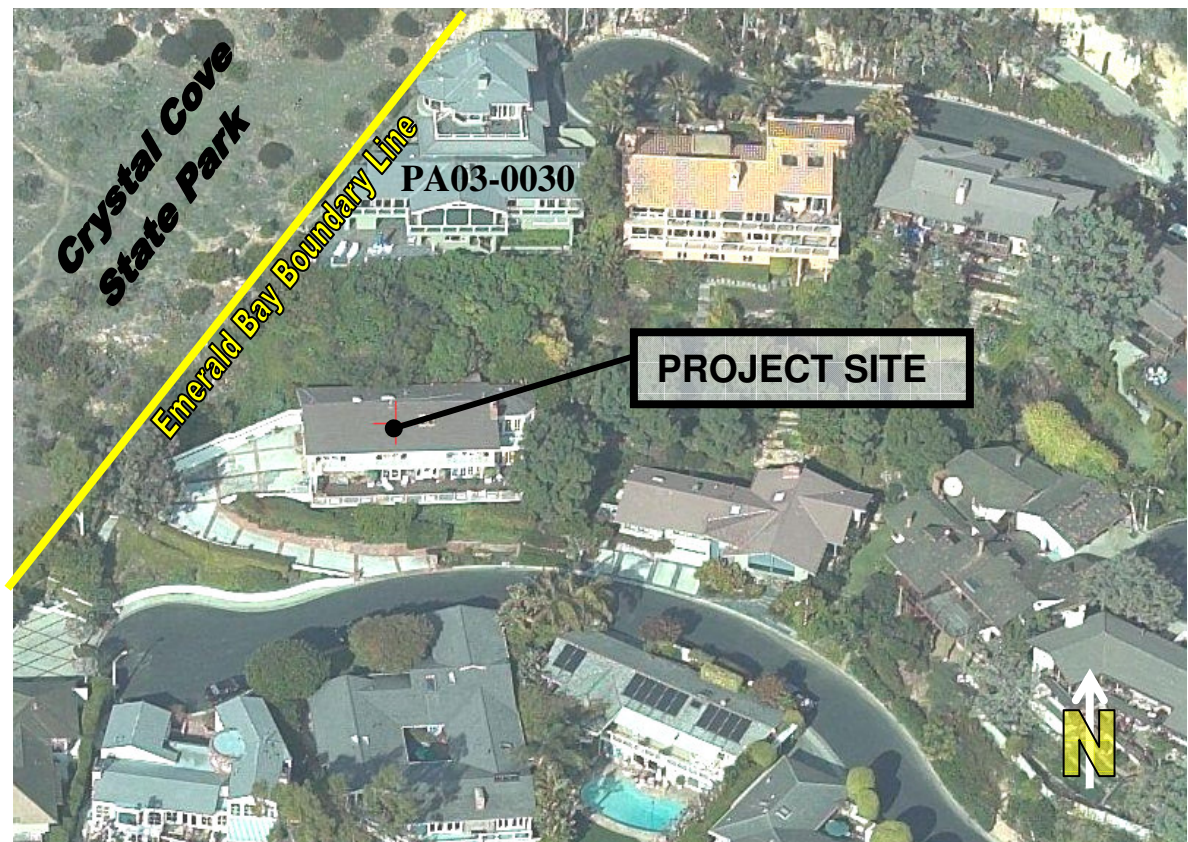
BACKGROUND:

The subject property is an irregular shaped 11,834 square feet lot developed with a two-level, 3,639 square feet single-family dwelling. The lots in this northern area of Emerald Bay are characterized by steep topography. This lot is typical of the steep topography with an elevation increase of 55 feet from the front to the back of the property. The driveway to the existing dwelling is "u" shaped going up the slope from the street to an attached side entry two-car garage. The applicant proposes to construct a new street level front entry three-car garage, with a terrace and swimming pool/spa above; and, convert the existing garage into additional living space. To construct the new garage/terrace facility the garage would be excavated into the property. The proposal requires approval of a Variance, Use Permit and Site Development Permit as described under the project Proposal.

SURROUNDING LAND USE:

The project site and all surrounding residential properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with single-family dwellings (see photo below).

Direction	Zoning	Existing Land Use
Project Site	R1 “Single-family Residence”/CD “Coastal Development”	Single-family residence
North	R1/CD	Single-family residence
South	R1/CD	Single-family residence
East	R1/CD	Single-family residence
West	Newport Coast PC/LCP Planning Area 17	Crystal Cove State Park



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to nine County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The applicant submitted written information from the Emerald Bay Community Association for this proposal indicating that the proposal received preliminary approval from the Emerald Bay Board of Directors on November 1, 2004. The document also indicates that the Association required the applicant to change the garage door setback from 8'-8" to 11 feet.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 1, repair or minor alteration of existing structures or facilities and Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

In addition to the R1 zoning, Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 "Coastal Development" District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulations and are not subject to obtaining a Coastal Development Permit for new construction.

Staff notes that the proposal originally included a request for approval of a rear yard setback variance to allow an addition at the rear of the residence. A Notice of Hearing was sent out with that rear yard variance request. After the notice of hearing was mailed and the site posted, staff determined that the subject lot qualified as a "shallow lot" as defined under Zoning Code Section 7-8-128.2 with front and rear setbacks of 9.5 feet. Therefore, the proposed addition at the rear of the site would be in compliance with the rear setback requirement and a rear yard setback variance is not required. The front garage setback variance is still required.

Regarding the Variance, front and rear yard Variance requests are common in Emerald Bay because the CC&Rs contain a minimum setback requirement of five (5) feet from all property lines. These setback requirements often conflict with the minimum front and rear setbacks required by the Zoning Code for the R1 District. The proposed additions, except for the garage driveway length, do conform to both the Emerald Bay and Zoning Code setback standards. The subject property is a shallow lot and as such Section 7-9-128 of the Zoning Code provides for smaller front and rear setbacks. For this lot the front and rear setback requirement is 9.5 feet.

The garage driveway requirement under Section 7-9-137.1 "Garages and carports" is to maintain a distance of 20 feet (may be reduced to 18 feet with sectional roll-up door) from the garage entry to the

street curb line. The proposed garage has a setback of 11 feet from garage entry to the curb, so a Variance is necessary to accommodate this design. As previously mentioned the Emerald Bay Community Association required the applicant to change the garage door setback to 11 feet from the applicant's plans showing 8'-8". Section 7-9-145.3 "Residential off-street parking requirements" has an additional requirement that a garage with a driveway less than 17 feet in length provide one additional parking space within 200 feet of the dwelling unit. A third space in the new garage is proposed to satisfy that requirement. Subdivision and Grading Services/Traffic Review staff did not express a concern for the short driveway. The 11-foot driveway length should discourage "straight-in" parking in front of the garage. Staff notes that Emerald Bay has a requirement of four on-site parking spaces for the subject dwelling. The fourth space is shown as a parallel space in the driveway, which is not a County standard and does not conform to the County off-street parking standards. Additionally, the Emerald Bay Community Association actively polices parking throughout the community. A condition of approval requires that the garage door be the sectional type with a remote opener.

While a short driveway length is common in Emerald Bay, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Regarding the over height walls proposed in the front setback area, over height walls in Emerald Bay are also very common. The most common type of over height wall is on the side property line. In order to conform to the Emerald Bay height standard, the elevation of the site's building pad must be lowered. To provide for light and air within the 5 feet side yard setback area, a Use Permit is normally requested for retaining walls ranging in height 8 feet to 14 feet. A recent use permit approval, PA03-0030, for over height walls was granted on the adjoining property to the north at 1601 Emerald Bay. PA03-0030 was approved for a retaining wall varying in height from 10 to 14 feet above finished grade located at a distance of between 7 feet and 12 feet from the rear property line. This retaining wall was in conjunction with the construction of a new swimming pool and spa.

Because of the steep topography and the shape of the lot, a wall up to 9 feet in height is proposed at the entrance to the proposed garage. Additional walls exceeding the 3½-foot height limit are also required for the new stairs from the street to the residential entry. These garden terrace walls are also very common on steep lots in Emerald Bay. The driveway wall should have no impacts on surrounding property owners because the subject property is at the end of the cul-de-sac.

A Site Development Permit is required per Zoning Code Section 7-9-139 "Grading and Excavation" because the grading proposed exceeds 500 cubic yards on a slope greater than 30 percent. The grading plans call for excavating of 688 cubic yards and fill of 97 cubic yards. The slope on the property is

calculated in excess of 40 percent. Grading will be conducted per County grading standards. A haul route for the excavated material will be include with the required grading permit. The applicant will also be subject to requirements of the Emerald Bay Community Association regarding haul routes. Their requirements are separate from the County and are not enforced by the County.

The project proposed by the applicant are similar to other projects approved in the Emerald Bay community. Staff is of the opinion that the Zoning Administrator is able to make the required findings for the Variance. Staff supports the proposed project and makes a recommendation as follows.

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0100 for Variance, Use Permit and Site Development Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Charles M. Shoemaker, Chief
PDS/Land Use Planning

WVM

Folder: My Documents/Emerald Bay/PA04-0100 Staff 2-10 Ueberroth

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Photos
3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.